In the Supreme Court of the United States

OCTOBER TERM, 1930

No. 56

THE UNITED STATES, PETITIONER

v.

SWIFT AND COMPANY

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF CLAIMS

MOTION TO ADVANCE

Now comes the petitioner in the above-entitled cause by the Solicitor General, and moves to advance this case so that the following four cases may be heard consecutively:

No. 42, *United States, Petitioner,* v. *Boston Buick Company.*

No. 43, *United States, Petitioner,* v. *Iron Cap Copper Company.*

No. 56, *United States, Petitioner,* v. *Swift and Company.*

No. 113, *Pottstown Iron Company, Petitioner,* v. *United States.*

A motion to advance No. 113, *Pottstown Iron Company, Petitioner,* v. *United States,* for hearing

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immediately following *United States* v. *Iron Cap Copper Company*, No. 43, was allowed on June 2, 1930.

In support of this motion, counsel submits the following statement:

No. 42, *United States, Petitioner*, v. *Boston Buick Company*, is before this Court on writ of certiorari, granted March 17, 1930, to the Circuit Court of Appeals for the First Circuit. No. 43, *United States, Petitioner*, v. *Iron Cap Copper Company*, is before the Court on writ of certiorari, granted March 17, 1930, to the Circuit Court of Appeals for the First Circuit. No. 56, *United States, Petitioner*, v. *Swift and Company*, is before the Court on writ of certiorari, granted March 17, 1930, to the Court of Claims. No. 113, *Pottstown Iron Company, Petitioner*, v. *United States*, is before the Court on writ of certiorari, granted June 2, 1930, to the Court of Claims.

In the first three of these cases the issue is the date on which the allowance of a credit of an overpayment of income and excess-profits taxes against an underpayment for other years becomes effective as a payment. In Nos. 42 and 43 that date is decisive of the question whether interest on the credits should be computed under Section 1324 (a) of the Revenue Act of 1921, or under Section 1019 of the Revenue Act of 1924. In No. 56 that date is decisive of the question whether the claim for refund of the taxpayer was filed within the period of

limitation fixed by law, i. e. within four years from the date of the payment of the tax. As payment of the tax was effected by a credit, the case turns on the date of the allowance of the credit. In No. 113, that date is decisive of the question whether interest on the credit should be computed under Section 1019 of the Revenue Act of 1924 or under Section 1116 of the Revenue Act of 1926.

An additional question has been raised in No. 113, namely, as to when a credit is "taken" within the meaning of that term in the statute, if such taking is on some other date than the date on which the credit is allowed. In view of this additional question, it seems desirable to hear No. 113 last of the four cases.

Counsel for respondent in No. 56 and for petitioner in No. 113 concur in this motion.

Respectfully submitted.

THOMAS D. THACHER,
Solicitor General.

JULY, 1930.

U. S. GOVERNMENT PRINTING OFFICE: 1930